

ABSTRACT

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Dissertation topic: International Power Trading Law

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The purpose of the thesis was legal analysis of the power trading in the today's global world. This entails mainly the discipline of international private law. Power trading, in particular transactions on sale and purchase of electric power with an international element are subject to general rules of international private law. Nevertheless, the exceptional nature of electric power and of its disposition described in the thesis makes the area of power trading quite special sub-discipline of international private law. In the same time, very complex and significantly relevant part of the power trading, which the study cannot avoid to consider, is the regulatory framework, within which this specific sort of business is carried on.

After introductory Chapter One, the thesis describes characteristic issues in the international power trading, in its Chapter Two. Chapter Three provides necessary basic conceptual classification of the given topic within the system of law.

Although the main topic of this thesis is the core of the power trading business, meaning the private transactions related to electric power and their analysis, fair part of the study has been dedicated to proper analysis of the regulation connected to it. The reason is seen to be inhered in the technical nature of the special sort of traded good – electricity, as well as its great economical and hence political sensitivity, or the huge environmental impact, which production of the electric power represents. In Chapter Four, all these aspects have been subject to the research, put into context and resulting regulation has been consequently explored. Attention has been paid to the activities of global organizations such as WTO or OECD. Special subchapter has been dedicated to very unique activities on the European continent, the integration of national electricity markets into one pan-European electricity market lead by the European Union and the European Charter. The thesis also elaborates on the recently

established capital market regulation over electricity derivatives following the MiFID Directive of European Union. Chapter Five, in quite narrow connection, introduces special subjects present on the energy market.

On the background of the outlined regulatory framework, the thesis aims in its Chapter Six, to characterize the transactions, respectively contractual types used in the practice. It outlines specifics connected to determination of obligation status of the contractual relationships typical for power trading. The thesis introduces standardized Master Agreement EFET and it provides its in-depth analysis. The thesis also considers application of the Vienna United Nations Convention on Contracts for the International Sale of Goods.

The study focuses on the field of international law, primarily, nonetheless it is written from the perspective of a Czech lawyer. In the case of an international transaction, always particular national law is applied, whether as result of choice of law or application of collision rules, unless it is, in rare cases, subject to directly applicable international norms. Hence, Czech law has been analyzed to the extent as relevant and necessary in order to provide complete view on the problematic for the case that the Czech law is applied in such an international transaction. Accordingly, the thesis investigates the status of electricity, its nature as legal institute, the identification of a contractual types used in the power trading business under applicable Czech law, as well as the local regulation applicable always in the case that a transaction takes place in the grid of the Czech Republic. The thesis also focuses on the foreseen development in this area of Czech national law.

The power industry provides plentiful challenges and it is subject to massive development in a global scale. This makes the topic of international transactions in power trading quite attractive. In the final Chapter Seven, the thesis sums these challenges as well as the dynamic development of the international power trading law.

Key words

Access to network, ECT, energy trade, environment, EU, internal electricity market, liberalization, MiFID Directive, OECD, power sector regulation, unbundling, WTO.